

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JANE ROCIO EVANS,

**Plaintiff(s),**

No. C 08-0894 PJH

v.

## **ORDER OF DISMISSAL**

## WALDEN HOUSE, INC.,

**Defendant(s).**

11 Pro se plaintiff filed this action on February 11, 2008, alleging some kind of  
12 employment discrimination against defendant. She also requested leave to proceed in  
13 forma pauperis (“IFP”). On May 9, 2008, the court dismissed the complaint pursuant to 28  
14 U.S.C. § 1915(e), for lack of federal subject matter jurisdiction, and denied the IFP request.  
15 The dismissal was with leave to amend. Plaintiff was given instructions on the deficiencies  
16 in her complaint and was permitted to file an amended complaint curing those deficiencies  
17 by May 30, 2008. Instead of filing an amended complaint, plaintiff filed on May 29, 2008, a  
18 request to vacate judgment to dismiss complaint and on June 2, 2008, a request to vacate  
19 order to dismiss complaint. Plaintiff argued in both documents why her complaint should  
20 not have been dismissed, but did not clearly state what her claims are so that the court  
21 could complete the review required by 28 U.S.C. § 1915. Accordingly, both requests were  
22 denied.

23 Plaintiff was, however, given yet another opportunity to amend her complaint and  
24 was told again that the amended complaint must contain the heading "Amended Complaint"  
25 or "First Amended Complaint," and must clearly set forth the acts committed by defendant  
26 that she is suing for, the dates these acts are alleged to have been committed, and the  
27 legal basis for this court's federal subject matter jurisdiction. The deadline for filing the  
28 amended complaint was extended to July 10, 2008. On July 8, 2008 plaintiff lodged, but  
did not file, yet another document, this time untitled, in which she requested yet another

1 continuance of unspecified duration so that she could come to the courthouse on July 21,  
2 2008 to look at the court file for this case and view the electronic record. She stated that  
3 she had attempted on July 7, 2008 to "access records from Defendant's response at  
4 Federal Courthouse, in order to adequately respond to statements that Plaintiff's Title VII  
5 charge is not clear." Because plaintiff appeared to believe that Walden House had  
6 objected in some way to her complaint and appeared to be attempting to obtain that  
7 objection, the court explained again its obligation to screen her complaint in light of her IFP  
8 request prior to service by the Marshal on defendant.

9 Plaintiff's attention was directed back to the May 9, 2008 order for instructions on  
10 what she needed to show to establish federal jurisdiction. Because there is no federal  
11 jurisdiction if plaintiff did not file an EEOC complaint within 180 days of the unlawful  
12 employment practice, which appears to be her August 4, 2005 termination from Walden  
13 House, plaintiff was advised to submit a copy of her EEOC complaint filed before February  
14 4, 2006.

15 One last continuance was granted and plaintiff was warned that her case would be  
16 dismissed if an amended complaint with the appropriate supporting documents was not  
17 filed by July 24, 2008. Notwithstanding the three prior orders and specific instructions,  
18 plaintiff has filed nothing.

19 The court having considered the five factors set forth in *Malone v. United States Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987), and having determined that  
20 notwithstanding the public policy favoring the disposition of actions on their merits, the  
21 court's need to manage its docket and the public interest in the expeditious resolution of the  
22 litigation require dismissal of this action. In view of plaintiff's lack of response to this court's  
23 prior order(s), the court finds there is no appropriate less drastic sanction. Accordingly, this  
24 action is dismissed.

25  
26 IT IS SO ORDERED.  
27 Dated: July 30, 2008  
28



PHYLЛИS J. HAMILTON  
United States District Judge

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

JANE R EVANS,

Case Number: CV08-00894 PJH

Plaintiff,

**CERTIFICATE OF SERVICE**

v.

WALDEN HOUSE INC.,

Defendant.

/

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on July 31, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Jane Rocio Evans  
PO Box 424886  
San Francisco, CA 94142

Dated: July 31, 2008

  
Richard W. Wiking, Clerk  
By: Nichole Heuerman, Deputy Clerk